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November 7, 2013

VIA ELECTRONIC CASE FILING

Hon. Harold Baer, Jr.
United States Courthouse
500 Pearl Street
New York, NY 10007-1312
(212) 805-0184

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/12/13

Re: Frederick Brown v. CrowdTwist, Inc.
No. 12-CV-6110 (HB) (SDNY)

LETTER MOTION REQUESTING PREMOTION CONFERENCE

Dear Judge Baer:

I am the attorney for the plaintiff, Frederick Brown, in the above-referenced employment discrimination lawsuit. I am writing to request a premotion conference with the Court, to be held at the Court's earliest convenience, in anticipation of filing a motion for leave to file an amended complaint pursuant to Fed. R. Civ. P. 15(a)(2). (The plaintiff previously submitted a letter motion for leave to file an amended complaint, which was rejected from ECF by the clerk's office.)

The plaintiff notes that the Court's individual practices do not require premotion conferences; neither do they preclude such requests. However, because the current deadline for discovery is November 18, 2013, and the deadline for the submission of the defendant's motion for summary judgment is December 5, 2013, the plaintiff submits that a premotion conference is the most expeditious manner for addressing this issue.

Briefly, the plaintiff proposes to file an amended complaint to add certain federal and state law claims relating to the defendant's illegal monitoring and interception of the plaintiff's private, personal email communications and LinkedIn communications after his termination from the company.

The plaintiff first learned of this illegal activity on or about July 23, 2013, during discovery in this case, when the defendant produced numerous copies of these post-employment communications – including emails with undersigned counsel – in response to the plaintiff's document requests.

The evidence is clear that the defendant gained unauthorized access to the plaintiff's private, personal internet accounts after his termination and viewed and copied several emails and LinkedIn communications that belonged to him. The plaintiff contends that this conduct violated federal and state law.

The plaintiff proposes to add the following claims: violation of the federal Computer Fraud and Abuse Act, 18 U.S.C. § 1030 et seq.; violation of New York P.L. § 156.10 (computer trespass) and P.L. § 156.30 (unlawful duplication of computer related material); and violation of New York common law of trespass and conversion. The proposed claims are timely and state plausible claims for relief.

Although the plaintiff could initiate a separate civil action against the defendant, the plaintiff submits that the interests of justice, convenience, and efficiency would best be served by amending the complaint in this case. Although some additional discovery may be required, including re-opening the plaintiff's deposition for the limited purpose of examining these new claims, the plaintiff submits that such discovery can be completed expeditiously and will not affect the May 2014 trial date.

Accordingly, the plaintiff requests a premotion conference with the Court to address this very important and urgent issue.

Respectfully submitted,

Steven M. Warshawsky

Steven M. Warshawsky (SW 5431)

cc: Kuuku Minnah-Donkoh, Esq.
Counsel for the Defendant (via ECF)

*Sounds to me
like you have a hard row
to hoe but I'm glad to
have a TIC to decide - contact
Chambers for Wed 11/13 TIC*

Handwritten signature

Harold Baer, Jr., U.S.D.J.
11/11/13

Endorsement:

Sounds to me like you have a hard row to hoe but I'm glad to have a telephone call to decide - contact Chambers for Wednesday, November 13 telephone call.